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## USCIS Grants One-Time Accommodation for Shepherders in H-2A Status

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) announced today that it would allow H-2A workers in the sheepherding industry more time to fully transition to the three-year limitation of stay requirements under the agency's final rule that became effective on Jan. 17, 2009. USCIS is making the one-time accommodation in deference to the industry's prior exemption from the 3-year limitation. This exemption does not impact other H-2A categories.

The time spent as an H-2A worker performing labor or services as a sheepherder prior to the effective date of the final rule will not be counted toward the 3-year maximum period of stay. Instead, USCIS is 'starting the clock' on Jan. 17, 2009 for sheepherders who were lawfully present in the United States in H-2A classification on that date.

All H-2A nonimmigrant workers – including those in the sheepherding industry – are subject to a three-month departure requirement once they have been present in the U.S. in H-2A status for the maximum three-year period. For example, an H-2A sheepherder present in the U.S. on Jan. 17, 2009 is required to depart from the U.S. not later than Jan. 16, 2012 for a period of at least three months before he/she would again be eligible for H-2A classification.

Any Form I-129 (Petition for a Nonimmigrant Worker) that was denied solely on the basis that the beneficiary, who would be performing labor or services as a sheepherder, had exceeded the three-year limitation of stay, may be reopened by initiating a Service Motion to Reopen via e-mail request to:

[csc-ncsc-followup@dhs.gov](mailto:csc-ncsc-followup@dhs.gov) (include 'H-2A Sheepherder Service Motion Request' in the subject line). USCIS will only review denials of petitions for which it has received a written request. Such requests will be accepted through Jan. 30, 2010. No fee is required.

Beneficiaries must be eligible to perform the labor or services stated on the petition. Additional evidence may be requested in any case where a final decision cannot be made based solely on the evidence of record. Also, if a petition was denied on other grounds, or if the petitioner fails to submit requested evidence of the beneficiary's continuing eligibility, the original denial of the case will be reaffirmed.

The H-2A program allows U.S. employers to bring foreign nationals to the U.S. to fill temporary agricultural jobs. USCIS published a final rule affecting the program on Jan. 17, 2009 which removed certain limitations on H-2A employers and adopted streamlining measures in order to encourage and facilitate the lawful employment of foreign temporary and seasonal agricultural workers.

For more information on the H-2A nonimmigrant visa program and current Form I-129 processing times, visit [www.uscis.gov](http://www.uscis.gov) or call the National Customer Service Center at (800) 375-5283.

Last updated: 12/31/2009

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